

IN THE UNITED STATE PATENT AND TRADEMARK OFFICE

**COMBINED DECLARATION AND POWER OF
ATTORNEY FOR UTILITY PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**APPARATUS FOR AND METHOD OF SECURELY DOWNLOADING AND
INSTALLING A PROGRAM PATCH IN A PROCESSING DEVICE**

 X the specification of which is attached hereto.

 was filed on as United States Application Number or PCT International Application Number and was amended on .(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 a copy of which is attached hereto.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this applications is not disclosed in the prior United States or PCT international application in the manner provided by the first

paragraph of 35 U.S.C. 112, I acknowledge that duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national of PCT international filing date of this application.

U.S. Parent Application or PCT Number	Parent Filing Date	Parent Patent Number (if applicable)

As a named inventor, I hereby appoint the following registered attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected herewith:

Name	Registration Number	Name	Registration Number
Craig Lundell	30,284	Billy Allen	46,147
Carter White	41,374	Patricia Kammer	29,775
Howard Zaretsky	38,669		

Direct all correspondence to:

Craig Lundell
Howrey Simon Arnold & White
750 Bering Drive
Houston TX 77057-2198

Direct all telephone calls to Craig Lundell at 713.787.1400 and all facsimile correspondence to 713.787.1440.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature of First or Sole Inventor: *

Name: Mark Rindsberg

Residence: 22232 Alyssum Way, Boca Raton FL 33433, USA

PO Address:

Citizenship: USA

Date: * 12/15/2000

TITLE 37 CODE OF FEDERAL REGULATIONS §1.56

DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98.¹ However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) it establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) it refutes, or is inconsistent with, a position the applicant takes in:
 - (i) opposing an argument of unpatentability relied on by the Office; or
 - (ii) asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

¹ §§1.97(b)-(d) and 1.98 relate to the timing and manner in which information is to be submitted to the Office.

ASSIGNMENT

WHEREAS, I,

<u>Inventor Name</u>	<u>Address</u>	<u>Nationality</u>
Mark Rindsberg	22232 Alyssum Way, Boca Raton FL 33433, USA	USA

hereinafter called 'Assignor', have made certain inventions in

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described in an application for Letters Patent filed herewith by me, and

WHEREAS,

XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington DC 20002

a Delaware corporation, hereinafter called 'Assignee', is desirous of securing an undivided One Hundred Percent (100%) of the entire right, title and interest in and to the said inventions, applications and Letters Patent, when granted, and in and to any divisions, continuations, continuations-in-part, improvements, reissues or extensions that may be granted on any of them;


NOW, THEREFORE, BE IT KNOWN that for and in consideration of the sum of One Dollar (\$1.00) to me in hand paid by the said Assignee, and other good and valuable consideration, the receipt of which is hereby acknowledged, I, the Assignor, have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over unto the said Assignee, its successors and assigns, an undivided One Hundred Percent (100%) of the entire right, title and interest throughout the world in and to the said inventions, applications, Letters Patent, when granted, and in and to any divisions, continuations, continuations-in-part, improvements, reissues or extensions that may be made or granted on any of them;

TO HAVE AND TO HOLD the same to the full end of the term or terms for which said Letters Patent may be granted, as fully and completely as the same might be held by me had this sale and assignment not been made.

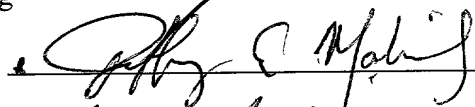
For the consideration aforesaid, I hereby covenant and agree to and with the said Assignee, its successors and assigns what whenever its counsel or representative, or the counsel or representative of its successors or assigns, shall advise of, or any other proceeding or action in connection with said application or inventions, including interference proceedings, is lawful and desirable, or that a reissue or continuation, continuation-in-part or extension of said Letters Patent is lawful and desirable, I will sign all lawful papers and drawings, execute all divisional, continuation, reissue and substitute applications, take all rightful oaths and affidavits, testify in any legal proceedings, and do all acts necessary or required to be done for the reissue of continuation, continuation-in-part or extension of same, and will do all acts necessary or required to secure to the said Assignee, its successors and assigns, the title to and full benefit of all rights hereby assigned, without charge to said Assignee or its successors or assigns, but at its or their expense.

AND the Commissioner of Patents and Trademarks is requested to issue the said Letters Patent, when granted, in accordance with this sale and assignment.

For the consideration aforesaid, I have sold, assigned, transferred and set over and by these presents do sell, assign, transfer and set over unto the said Assignee, its successors and assigns, or the nominees of any of them, an undivided One Hundred Percent (100%) of the entire right, title and interest in and to any and all Letters Patent for said inventions which may be granted in countries foreign to the United States, and in and to any applications for Letters Patent which may be filed for said inventions in countries foreign to the United States, and in and to the inventions described in said applications; and I hereby authorize and empower said Assignee and its successors, assigns or nominees, to apply for Letters Patent or other form of protection on said inventions in its own name or in the name of its successors, assigns or nominees, in any or all countries where it may desire to file such applications, and where said applications may be filed by other than the inventor; and I hereby covenant and agree to sign all papers and drawings, take all rightful oaths, execute all rightful affidavits, and do all acts necessary or required to be done for the procurement and maintenance of Letters Patent or other form of protection for said inventions in countries foreign to the United States, and for further investing or confirming the right and title thereto in the Assignee, its successor, assigns or nominees, but at its or their expense.



Mark Rindsberg

Witnessed By:  Date: 12/15/2000

Witnessed By:  Date: 12/15/2000